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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/768,369

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Lowell G. Steffens

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10/05/2006

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EXAMINER

BUTLER, MICHAEL E

ART UNIT

PAPER NUMBER

3653

DATE MAILED: 10/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/768,369

Applicant(s)

STEFFENS ET AL.

Examiner

Michael Butler

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>4/1/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim(s) 5 and 15 is/are rejected under 35 U. S. C. 112 second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicant has claimed a the storage locations are sized to hold a single standard sized propane cylinder without defining which standard has been selected nor specifying what those dimensions are. While Kurcz et al. 6213529 at c1L 11-21 has specified one standard propane cylinder size is 2.85 inches in diameter by 10 inches such those for plumber's soldering torches and camping grills, there are several smaller and larger standards available.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. Claims 1-6 and 8-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Johnson 3122401 which discloses all the claimed elements including:

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(Re: cl 1,13) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (c4 L 31-71);
a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (c6 L 34-64);
a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening (c4 L 62-72);
and an indexing assembly connected to door member and to rotator assembly
indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (c1 L 64-70)
(Re: cl 13) propane tank accessible (c6 L 9-63)
(Re: cl 2) including a locking mechanism attached to door member and enclosure and being operable to lock and unlock door member (c4 L 62-72)
(Re: cl 3) wherein the locking mechanism is token-operated (c4 L 62-72)
(Re: cl 4,14) wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being angularly displaced with respect to storage locations of another one of trays (c5 L 55-75)
(Re: cl 5,15) wherein storage locations are each sized to retain a single standard-sized propane tank in an upright position (c6 L 9-63)
(Re: cl 6,16) wherein adjacent ones of storage locations are separated by dividers 112 (fig 4)
(Re: cl 8,16) wherein rotator assembly includes a stop mounted at each of storage locations at a periphery of rotator assembly (c9 L 56-c10 L 54)
(Re: cl 9,17) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (c9 L 56-c10 L 54)
(Re: cl 10,18) wherein rotator assembly has a plurality of apertures formed therein each corresponding to one of storage locations and indexing assembly includes a pin for selectively engaging apertures to prevent rotation of rotator assembly (118 fig 2)
(Re: cl 11,19) wherein rotator assembly includes a lever arm mounting pin, lever arm being in a normal position with pin engaging one of apertures when door member is in the closed position and lever arm being moved by engagement with first arm to a released position disengaging pin from one of apertures (c9 L 56-c10 L 54)
(Re: cl 12,20) wherein rotator assembly includes a plurality of projections, second arm engaging one of projections during an opening of door member to rotate rotator assembly (c8 L 19-42).

5. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative as ob Johnson 3122401 which discloses all the claimed elements including: Claims 1-

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20 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35

U.S.C. 103(a) as obvious over Johnson 3122401 wherein Johnson discloses the element

previously discussed and further discloses:

(Re: cl 7) wherein dividers each include a horizontal beam extending from an upper portion of vertical beam radially inwardly (112 fig 2) and suggests a vertical beam adjacent a periphery of rotator assembly (112a fig 2).

A rod is suggestive of being a subset of being beam or a recognized equivalent of a beam.

It would have been obvious for Johnson to substitute rod with a beam as an easily fabricated structural and functional equivalent and come up with the instant invention.

6. Claims 1-3, 5-6, 8-13, 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by

Bjornson 1885324 which discloses all the claimed elements including:

(Re: cl 1,13) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (p3 L 47-60);

a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (p3 L 61-74);

a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening; and an indexing assembly connected to door member and to rotator assembly (p3 L 47-60),

indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (p3 L 47-60)

(Re: cl 13) propane tank accessible

(Re: cl 2) including a locking mechanism attached to door member and enclosure and being operable to lock and unlock door member (p1 L 50-100)

(Re: cl 3) wherein the locking mechanism is token-operated (p3 L 27-43)

(Re: cl 5,15) wherein storage locations are each sized to retain a single standard-sized propane tank in an upright position (p1 L 36-49)

(Re: cl 6,16) wherein adjacent ones of storage locations are separated by dividers (4 fig 4)

(Re: cl 8) wherein rotator assembly includes a stop mounted at each of storage locations at a periphery of rotator assembly (p1 L 50-100)

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(Re: cl 9,17) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (p1 L 50-100)
(Re: cl 10,1) wherein rotator assembly has a plurality of apertures formed therein each corresponding to one of storage locations and indexing assembly includes a pin for selectively engaging apertures to prevent rotation of rotator assembly (p1 L 50-100)
(Re: cl 11,19) wherein rotator assembly includes a lever arm mounting pin, lever arm being in a normal position with pin engaging one of apertures when door member is in the closed position and lever arm being moved by engagement with first arm to a released position disengaging pin from one of apertures (p1 L 50-100)
(Re: cl 12,20) wherein rotator assembly includes a plurality of projections (fig 2), second arm engaging one of projections during an opening of door member to rotate rotator assembly (P2 L 1-48).

7. Claims 1-3,5-6, 8-11, 13, 15-18, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Reichle et al. 4621746 which discloses all the claimed elements including:

(Re: cl 1) An apparatus for vending a plurality of articles, comprising: an enclosure having closed sides and a hollow interior, enclosure having a door opening formed in one of sides (c 3 L 29-43);
a rotator assembly rotatably mounted in hollow interior of frame, rotator assembly having a plurality of angularly spaced storage locations each for releasably retaining an article to be vended (c3 L 51-68);
a door member hingedly attached to frame and operable to be moved between a closed position blocking door opening and an open position permitting access to rotator assembly through door opening; and an indexing assembly connected to door member and to rotator assembly (c3 L 51-68),
indexing assembly being operable to rotate rotator assembly to move one of storage locations away from door opening and move another one of storage locations to door opening to access an article at another one of storage locations through door opening when door member is moved from the closed position to the open position (c4 L 58-c5 L 8)
(Re: cl 2) including a locking mechanism attached to door member and enclosure and being operable to lock and unlock door member (c4 L 58-c5 L 8)
(Re: cl 3) wherein the locking mechanism is token-operated (c4 L 58-c5 L 8)
(Re: cl 5) wherein storage locations are each sized to retain a single standard-sized propane tank in an upright position (c3 L 1-3)
(Re: cl 6) wherein adjacent ones of storage locations are separated by dividers (c3 L 1-3; c4 L 1 L 14)
(Re: cl 8) wherein rotator assembly includes a stop mounted at each of storage locations at a periphery of rotator assembly (23)
(Re: cl 9) wherein indexing assembly includes a first arm for enabling rotator assembly to rotate and a second arm for rotating rotator assembly (c4 L 30-68)

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(Re: cl 10) wherein rotator assembly has a plurality of apertures formed therein each corresponding to one of storage locations and indexing assembly includes a pin for selectively engaging apertures to prevent rotation of rotator assembly (c3 L 61-68)

(Re: cl 11) wherein rotator assembly includes a lever arm mounting pin, lever arm being in a normal position with pin engaging one of apertures when door member is in the closed position and lever arm being moved by engagement with first arm to a released position disengaging pin from one of apertures (c4 L 21-68).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim(s) 1-20 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Bjornson 1885324 in view of Wittenborg 4498603 wherein the former discloses the elements previously discussed and the latter discloses any elements not inherently taught by the former including:

(Re: cl 4,14) wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being angularly displaced with respect to storage locations of another one of trays (3 fig 1)

(Re: cl 7) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly and a horizontal beam extending from an upper portion of vertical beam radially inwardly (11,14 fig 3).

It would have been obvious for Bjornson to modify the divider structure to increase the divider strength and secure the cylinders against jostling as taught by Wittenborg and come up with the instant invention. It would have been obvious for Bjornson to stack a plurality of trays

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to increase capacity and provide customers variety in products purchased as taught by Wittenborg and come up with the instant invention.

10. Claim(s) 1-20 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over by Reichle et al. 4621746 in view of Wittenborg 4498603 wherein the former discloses the elements previously discussed and the latter discloses any the elements not inherently taught by the former including:

(Re: cl 4,14) wherein rotator assembly includes at least two article supporting trays in a stacked relationship, each of trays having a predetermined number of storage locations, storage locations of one of trays being angularly displaced with respect to storage locations of another one of trays (3 fig 1)

(Re: cl 7) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly and a horizontal beam extending from an upper portion of vertical beam radially inwardly (11,14 fig 3).

It would have been obvious for Reichle et al. to modify the divider structure to increase the divider strength and secure the cylinders against jostling as taught by Wittenborg and come up with the instant invention. It would have been obvious for Reichle et al. to stack a plurality of trays to increase capacity and provide customers variety in products purchased as taught by Wittenborg and come up with the instant invention.

11. Claim(s) 1-20 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson 3122401 in view of Wittenborg 4498603 wherein the former discloses the elements previously discussed and the latter discloses any elements not inherently taught by the former including:

(Re: cl 7) wherein dividers each include a vertical beam adjacent a periphery of rotator assembly (11 fig 3).

It would have been obvious for Johnson to substitute the vertical rods with beams to simplify fabrication as taught by Wittenborg and come up with the instant invention.

Conclusion


12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (571) 272-6937.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Mackey, can be reached on (571) 272-6916. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MEB
10/11/06


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